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--This patent arises from a divisional application claiming priority from U.S. application serial no. 09/626,576, filed July 27, 2000, which in turn claims priority from U.S. provisional application serial no. 60/215,982, filed July 5, 2000.--

REMARKS

The Office action dated March 4, 2003 has been carefully considered. In view of the following remarks, all pending claims are in condition for allowance. Favorable reconsideration of all pending claims and the restriction requirement is respectfully requested.

The Office action identified pending claims 36-48 as being directed to three (3) distinct inventions. Specifically, the Office action required an election between claims 36-42, 45, 46 and 48 (Group I), claims 43-44 (Group II), and claim 47 (Group III). (The Office action made no reference to pending claim 51.) As set forth in detail below, without denying that the claims are patentably distinct, applicants traverse this restriction requirement. Subject to that traversal and in accordance with the requirements of 37 C.F.R. § 1.143, applicants hereby provisionally elect claims 36-42, 45, 46 and 48 (Group I) and claim 51 (which was not addressed in the Office action) for further prosecution in this application. Reconsideration and withdrawal of the restriction requirement is, however, requested in view of the following remarks.

The M.P.E.P. clearly and unequivocally states that there are two criteria which must be met for a requirement for restriction to be proper: (1) the inventions must be independent or distinct as claimed; and, (2) there must be a serious burden on the examiner if restriction is not required. (M.P.E.P. §

803). In this instance, although the Office action argues that the groups of claims identified in the Office action are patentably distinct, it fails to demonstrate that a serious burden would be placed on the Examiner if election were not required. Indeed, the Office action admits that the three claim sets fall within the same class. Given this close classification, applicants respectfully submit that there can be no serious burden upon the Examiner in reviewing all of the claims simultaneously since the Examiner will clearly be searching this class in full anyway in reference to any elected one of the claim sets.

If there is a serious burden in the present application, it is on the assignee of this application as a result of this restriction requirement. Unless the restriction requirement is withdrawn, the assignee must not only prosecute as many as four separate applications (the three claim sets identified above, plus the parent case), which multiplies the cost and time of obtaining protection for the inventive subject matter, but it must also then pay separate maintenance fees for each of the issued patents. It is respectfully submitted that the burden of the expense incurred in order to obtain four different patents and the further expense in maintaining those patents suffered by the taxpayer, far outweigh any possible burden the Patent Office may incur as a result of simultaneously examining the claims of this application, particularly because they are identically classified.

In summary, the Office action fails to address the second required criteria for restriction set forth in the M.P.E.P. In view of the following mandate, this failure renders the restriction requirement improper:

> If the search and examination of an entire application can be made without serious burden,

> the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

(M.P.E.P. § 803)(emphasis added). Therefore, applicant requests that the requirement for restriction be withdrawn.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455 A copy of this paper is enclosed.

Respectfully submitted,

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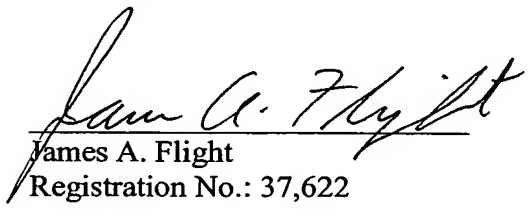
By: 
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